

Serial No.: 10/796,808

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## CERTIFICATE OF TRANSMISSION PURSUANT TO 37 C.F.R. §1.6(d)

I hereby certify that this correspondence, along with accompanying documents, pursuant to 37 C.F.R. §1.6(d), are being sent via facsimile to 571-273-8300 addressed to Examiner Nancy Johnson on:

Date 12-27-05By: Sam Bittner

Signature of Person Transmitting Facsimile

IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICEPATENT

Applicant(s):	Michael N. Kozicki, et al.	Docket No.:	29089.5200
Serial No.:	10/796,808	Group Art Unit:	2823
Filed:	March 8, 2004	Examiner:	Nancy Johnson
TITLE:	PROGRAMMABLE STRUCTURE INCLUDING AN OXIDE ELECTROLYTE AND METHOD OF FORMING THE SAME	Confirmation No.	2075

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. 1.182

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Mrs. Johnson:

In response to the Decision of Petition mailed September 19, 2005 in the above captioned application, Applicants hereby submit the following Request for Reconsideration of Petition under 37 C.F.R. 1.182.

In the September 19, 2005 Decision, the Petitions Attorney stated that the amendment, "does not make clear that any non-provisional application in the chain was filed within twelve

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months from the filing date of 'those' provisional applications." Applicants respectfully disagree. Applicants' petition was directed towards amending the specification to include the priority claim to U.S. Patent Application Serial Number 60/452,648, entitled FABRICATION OF PROGRAMMABLE METALLIZATION CELL DEVICES WITH OXIDE ELECTROLYTES, filed March 7, 2003. The instant pending non-provisional patent application was filed on March 8, 2004, within twelve months of the filing date of the prior provisional patent application. Therefore, under 35 U.S.C. 119(c) and in accordance with 35 U.S.C. 111(a), the present application, properly claims priority to application 60/452,648, and indeed Petitions Attorney concedes such in paragraph three on page two of her response.

However, the Petitions Attorney asserts that the present application improperly claims priority to provisional applications Serial Numbers; 60/364,547 filed 3/15/2002; 60/365,551 filed 3/18/2002; 60/365,602 filed 3/18/2002; and 60/365,601 filed 3/18/2002. The Petitions Attorney states that the provisional applications must claim priority to an intervening application, wherein the present application can then claim priority to the intervening application, thus establishing a proper chain of priority that conforms with 35 U.S.C. 119(e).

Applicants hereby submit with the attached amendment to clarify that serial number 10/390,268, which the present application is a CIP of, is the intervening application that claims priority to the provisional applications in question.

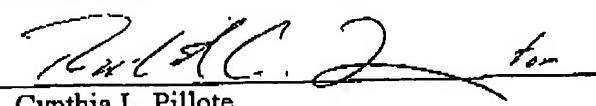
In view of the attached amendment and the comments set forth herein, Applicants respectfully request favorable consideration of this Request for Reconsideration. Should the Petitions Attorney wish to discuss any of the above in greater detail, then the Petitions Attorney is invited to telephone the undersigned at the Attorney's convenience.

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Respectfully submitted,

Reg. No. 51,337

By

  
Cynthia L. Pillote  
Reg. No. 42,999Date: December 27, 2005

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